

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

EARL INGELS,

Petitioner, : Case No. 1:21-cv-561

- vs -

District Judge Matthew W. McFarland
Magistrate Judge Michael R. Merz

WARDEN, North Central
Correctional Institution,

:
Respondent.

DECISION AND ORDER

This habeas corpus case is before the Court on Petitioner's Motion to Transfer to Cure Want of Jurisdiction (ECF No. 55). Petitioner relies on 18 U.S.C. § 1631 which is not applicable as it applies to transfer of "actions," not documents inadvertently filed in one court when intended to be filed in another.

The document in question is PageID 1998 which is captioned "In the United States District Court – Sixth Circuit of Ohio" and bears both Petitioner's case number in this Court and in the Sixth Circuit. It has never before been filed in this Court.

A different motion for reconsideration of denial of a certificate of appealability, captioned only in this Court and 140 pages long, was filed here August 25, 2023 (ECF No. 51). Treating it as a post-judgment motion for reconsideration of denial of a COA, the undersigned recommended it be denied as untimely under Fed.R.Civ.P. 59(e)(Report, ECF No. 51). Petitioner made no objection and District Judge McFarland adopted the Report September 29, 2023 (ECF No. 53).

Petitioner is entitled to appeal from that decision until October 29, 2023, but the Magistrate Judge recommends against granting a certificate of appealability because no reasonable jurist would disagree with this Court's conclusion that it lacked authority to grant an untimely Fed.R.Civ.P. 59(e) motion.

The Sixth Circuit already denied Ingels a certificate of appealability on June 27, 2023 (copy at ECF No. 49). Petitioner's time to move in the Sixth Circuit for reconsideration of that decision has likely expired.

Petitioner's Motion to Transfer is DENIED.

October 4, 2023.

s/ *Michael R. Merz*
United States Magistrate Judge